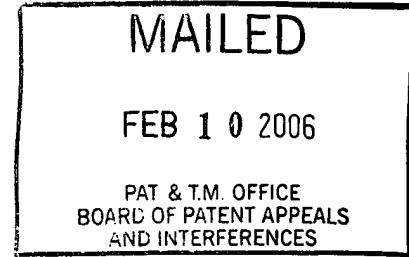


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte RODGER WILLIAMS and KENNETH H. GENTRY JR.

Application No. 09/840,469

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On June 9, 2004 and June 14, 2004, appellants filed Information Disclosure Statements. It is not clear from the record whether the examiner considered the statement(s) submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

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Also, on September 28, 2005, the examiner has mailed an examiner's answer. In the Evidence Relied Upon section, page 3, paragraph (8), the examiner has stated that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that references to Coppola (US 6,360,138), Devine (US 6,763,376), and Kohut (US 6,338,008) were applied to the statement of rejections in the Grounds of Rejection section, paragraph (9) of the examiner's answer. Before further review, the examiner must submit a corrected examiner's answer that will include in the Evidence Relied Upon section, the list of references mentioned in the statement of rejections. Appropriate correction is required.

Accordingly, it is


ORDERED that this application be returned to the examiner for: 1) consideration of the Information Disclosure Statements stated above; 2) appropriate notification by the examiner to appellants of such consideration; 3) vacate the examiner's answer mailed September 28, 2005, and issue a revised Examiner's Answer having the missing references listed under the Evidence Relied Upon section, paragraph (8); and 4) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


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CRF/tdl